

of gambling on the part of the State, its political subdivisions or other citizens. I assure you that my position today is in my mind at least consistent with the previous positions I have taken in this Convention and in an attempt to keep out of the constitution the irrelevant, the trivial, the unenforceable.

It seems to me there are two issues presented here today. Originally I thought there was only one, the narrow issue we discussed before the Constitutional Convention Commission. Namely, shall the present prohibition in the Constitution which prohibits the state from granting a lottery, that is conducting a lottery itself, or having private persons conduct it for it, be continued?

Now, I think, the issue is a fairly simple one. My own personal opinion is it is an anachronistic prohibition, one perhaps that was justified in history in a day when people did not trust their legislature but the whole thrust of this Convention and the whole reason of evolution of the history of this State is the development of a legislature that we can trust. If state lottery is as poor as the opponents say, I agree that they are at least on New Hampshire experience. If they are that bad as revenue raisers, if they are, as my friend Delegate Chabot said, a form of retrogressive taxation, then I suppose the New York Legislature will soon abolish it. Our legislature hopefully would never adopt it. But to put it in the constitution as thou shalt not, seems to me completely unnecessary.

However, the issue that disturbs me is the one that really evolved on the floor today in the question period. As I understand the explanation of the new language, suggested by the Committee on Finance, it would not only bar the legislature and the political subdivisions from conducting a lottery, but would also bar any private group from conducting whatever is classified as a lottery. There is no question in my mind that bingo is a lottery. A very strong argument to that effect was made by my good friend Rufus King in *Bender v. Anne Arundel County* recently in the Court of Appeals. A great majority of the states holds bingo is a lottery. I suggest any dog racing, bookmaking, off-track betting, raffles, prize grab machines, card games with betting, spinning wheel, pin-ball machines, and so forth, are lotteries.

Certainly in any intelligent definition of lottery all these categories of gambling activity would be prohibited in the consti-

tution. I am not debating the fact that maybe they should be prohibited but they should be prohibited by the legislature which would have flexibility to deal with the situation so as to permit those forms of gambling which were thought tolerable and to prohibit those forms which were thought not tolerable, but to put this provision in the statute with the legislative history that has accompanied this as a result of the debate today seems to me to really open the door, as Delegate Finch put it, for the professional gamblers to come in.

I agree with my friend Delegate Price that perhaps the morals of society today are in some areas at least in a process of disintegration but I suggest to you nothing we put in any constitution can stop that. The Weimar Republic had the fanciest phrases about democratic procedure but it shortly was destroyed.

THE CHAIRMAN: Your time has expired, Delegate Scanlan.

DELEGATE SCANLAN: I urge you then to take this opportunity where you failed several times in the past to eliminate something. That remedy has no place in the constitution.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: I yield three minutes to Delegate Mentzer.

THE CHAIRMAN: Delegate Mentzer.

DELEGATE MENTZER: Mr. Chairman, I do not believe we are being asked to vote against bingo. I believe we are considering whether we should vote against the conducting of a lottery by the State or its political subdivisions as a source of governmental revenues and I am against this. It is quite ironic that the rock-ribbed State of New Hampshire was the first in this century to have a state law for lotteries. New Hampshire has always projected a state image of thrift and self-reliance and virtue.

They did this admittedly as a means of shifting their tax burden to other taxpayers in other states, and they have not been successful.

The proponents of the lottery law in New Hampshire said they would raise four million dollars. Never did they raise three million dollars and now they are not even raising two. The law was passed in 1963; the figures for 1964 were \$2,700,000. They dropped in 1965 to \$2,500,000. Last year in 1966 the state distributed to the public